

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff(s), No. C ____ - ____ WDB
v. CASE MANAGEMENT
AND PRETRIAL ORDER
Defendant(s). (Court trial)

Pursuant to Fed. R. Civ. P. 16 and Civ. L. R. 16-15(c), the following case management and pretrial order is entered:

1. TRIAL DATE

a. Court trial shall begin on _____ at 10:00 a.m. in Courtroom 4, Third Floor, 1301 Clay Street, Oakland, California.

b. The length of the trial will be not more than _____ days.

2. DISCOVERY

a. Experts shall be disclosed by _____ (plaintiff); _____ (defendant).

b. All discovery from experts shall be completed by _____ (plaintiff); _____ (defendant).

c. All non-expert discovery shall be completed by _____.

d. Counsel shall contact the undersigned Magistrate Judge jointly by telephone before filing any discovery motions.

3. MOTIONS

All dispositive motions shall be served and filed not less than **thirty-five (35)** days prior to the scheduled hearing date of _____. Any opposition shall be served and filed no later than **twenty-one (21)** days prior to the hearing date. Any reply to the opposition shall be served and filed no later than **fourteen (14)** days prior to the date of the hearing.

4. SETTLEMENT CONFERENCE

A settlement conference shall be scheduled before another Magistrate Judge of this court. Counsel will be contacted by that judge's chambers with a date and time for the conference during _____, or as soon thereafter as is convenient to the judge's calendar.

5. PRETRIAL CONFERENCE

a. A final pretrial conference shall be held on _____ at _____ in Courtroom 4, 3rd Floor. The conference shall be attended by lead trial counsel for each party. The conference may be held telephonically if the parties desire. The parties must notify the court by 4:00 p.m. the day before that the conference will be held telephonically. Plaintiff shall initiate the conference call and then call chambers at (510) 637-3326.

b. **Not less than thirty (30) days** prior to the date of the pretrial conference, all counsel and/or parties shall meet and fulfill the requirements of Civil Local Rule 16-15(a).

c. **Not less than twenty (20) days** prior to the pretrial conference, counsel and/or parties shall:

- (i) serve and file pretrial statements pursuant to Local Rule 16-15(b);
- (ii) serve and file trial briefs, motions in limine, statements designating excerpts from discovery that will be offered at trial (specifying the witness and page and line references), and proposed findings of fact and conclusions of law;

- 1 (iii) serve and file a numerical list of each party's exhibits, including a brief
2 statement describing the substance of each exhibit;
3 (iv) serve and file an exhibit setting forth the qualifications and experience of
4 each expert witness;
5 (v) exchange all exhibits, which shall be premarked and tabbed, plaintiff using
6 a "P" suffix and defendant a "D" suffix on all exhibit numbers; and
7 (vi) deliver three sets of all premarked exhibits to chambers (exhibits are not
8 to be filed).

9 No party shall be permitted to call any witness or offer any exhibit in its case in chief that
10 is not disclosed in its pretrial statement without leave of court and for good cause shown.

11 d. **Not less than ten (10) days** prior to the pretrial conference, counsel and/or
12 parties shall serve and file: 1) any objections to witnesses or exhibits, 2) any objections to the
13 qualifications of expert witnesses, and 3) any oppositions to motions in limine.

14 e. All motions in limine and objections shall be heard at the pretrial
15 conference.

16 6. All documents filed with the Clerk of the Court shall list the civil case number
17 followed only by the initials "WDB." One copy must be clearly marked as a chambers copy.
18 IT IS SO ORDERED.

19
20 Dated: October 23, 1998

21 WAYNE D. BRAZIL
22 United States Magistrate Judge

22 Copies mailed to:
23 All parties
23 WDB, Stats
24
25
26
27
28

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8

9 **STANDING ORDER**
10 **OF U.S. MAGISTRATE JUDGE WAYNE D. BRAZIL**
11 **REGARDING**
12 **REQUESTS TO MODIFY CONDITIONS OF RELEASE**
13 **AND REQUESTS FOR TRAVEL ORDERS**

14 The court will no longer consider any request to modify release conditions or
15 for a travel order on behalf of a defendant in a criminal matter unless the request
16 includes a statement attesting that defendant's counsel has given prior notice of the
17 request to both the Assistant U.S. Attorney handling the prosecution and the Pretrial
18 Services officer assigned to the defendant. The request also must include a statement
19 apprising the court of the prosecutor's and the Pretrial Services officer's responses to
20 the request. Any requests submitted to the undersigned without these required
21 statements will be returned to defendant's counsel without consideration by the court.

22 IT IS SO ORDERED.
23

24 Dated: April 12, 2001
25

26 WAYNE D. BRAZIL
27 United States Magistrate Judge
28

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11
12 Plaintiff(s), No. C ____ - ____ WDB
13 v. PRETRIAL ORDER
14 (Jury Trial)
15 Defendant(s).
16 _____/

17 On _____, the court held a case management conference in the above-captioned
18 case. For reasons set forth on the record, the court hereby ORDERS the following:

19 1. The jury trial shall begin on _____, at ____ **a.m.**, in Courtroom 4, Third Floor,
20 United States Courthouse, 1301 Clay Street, Oakland, California.

21 2. By no later than _____ at _____, the court will hold a hearing on any
22 dispositive motions.

23 3. On _____ at _____, the court will hold the final pretrial conference. Lead trial
24 counsel for each party must participate in the conference. The conference may be held
25 telephonically if the parties desire, in which case plaintiff must notify the court by 4:00
26 p.m. the day before the conference. Plaintiff must initiate a conference call at the time
27 noticed and call the court at (510) 637-3326 when all parties are on the line.
28

DISCOVERY

4. Plaintiffs must disclose their experts by _____. Defendants must disclose their experts by _____.

5. All discovery from experts must be completed by _____.

6. The discovery cut-off date for non-expert discovery is _____.

Discovery cut-off date is defined in Civil Local Rule 26-2. No motions to compel discovery may be filed later than 10 days after the discovery cut-off date.

MEET AND CONFER

7. Not less than **30 days** prior to the date of the Final Pretrial Conference, the parties must meet and take all steps necessary to fulfill the requirements of this order.

WITNESSES AND DEPOSITION TESTIMONY

8. No less than **15 court days** before the final pretrial conference, each party must file, serve, and separately lodge with chambers a list of witnesses it intends to call on direct examination, in the order that the party expects to call them, with a brief description of the subject areas upon which each witness will testify, a description of the significance (in terms of factual propositions and/or legal theories) of the expected testimony, and an estimate of the time that direct examination will consume. Each party also must file and serve, with its witness list, excerpts from the deposition testimony of witnesses not testifying in person that may be presented at trial, specifically reproducing the pages and marking the lines of the relevant transcript excerpts. Two copies of the witness list and deposition excerpts must be lodged directly with chambers. (Full deposition volumes should not be lodged with the court.)

9. The parties will be precluded from offering substantive evidence (i.e., evidence offered for any purpose other than impeachment) by live testimony through any person not listed on the witness list or by deposition testimony not included in the submitted excerpts, and will be precluded from supplementing the witness list or the deposition

1 excerpts after the deadline set herein for exchanging this material, except upon the
2 express permission of the court. The court will permit the testimony of persons not
3 designated in the witness list or the use of deposition excerpts not timely disclosed only
4 upon a substantial showing that: (a) no party will be prejudiced or suffer undue hardship,
5 (b) the failure to timely designate the witness or testimony was clearly justified, and (c)
6 the interests of justice otherwise warrant permitting the testimony.

7 10. Counsel ordinarily will be permitted at trial to present foundational matter and
8 factual evidence describing the educational and employment background of witnesses in
9 summary, leading form.

11 EXHIBITS

12 11. No less than **15 court days** before the final pretrial conference, counsel must
13 **exchange** all exhibits (premarked), including demonstrative exhibits, that they intend to
14 use as part of their case-in-chief at trial.

15 12. Except for purposes of impeachment, the parties will be precluded from
16 offering in evidence, using as demonstrative evidence, or examining any of their
17 witnesses concerning any exhibit not exchanged by this deadline, except upon the express
18 permission of the court. The court will permit supplementation of exhibits after the
19 exchange date only upon a substantial showing that: (a) no party will be prejudiced or
20 suffer undue hardship, (b) the failure to timely designate the exhibit was clearly justified,
21 and (c) the interests of justice otherwise warrant the supplemental designation.

22 13. The court has attached to this Order the form of exhibit labels to be used by
23 each side. Each side should label their exhibits prior to trial. Plaintiffs must label their
24 exhibits numerically as follows: “_____, [insert initials -1, -2, etc] ...” Defendants
25 must label their exhibits numerically as follows: “_____,[insert initials -1, -2, etc]”
26 Counsel must not write in the space provided for “date entered” or “signature.” The court
27 has also attached to this Order an example of an “Exhibit List.” Each party must create
28 an Exhibit List that is substantially similar to the attached form and, prior to trial, must

1 list the number of each exhibit the party intends to offer at trial and briefly describe each
2 such exhibit.

3 14. No less than **2 court days** before the start of **trial**, each party must deliver to
4 chambers, in looseleaf binders, a sufficient number of complete sets of all documentary
5 exhibits to ensure that the judge, his law clerk, and each juror will have their own set of
6 documentary exhibits during trial. These sets are in addition to exhibits counsel will
7 officially submit to the courtroom deputy at trial and any copies of exhibits counsel will
8 want to show witnesses on the stand. All exhibits must be premarked for identification
9 according to the system set forth herein.

10
11 **EVIDENTIARY MOTIONS**

12 15. No less than **12 court days** before the final pretrial conference, counsel must
13 meet and confer to resolve any objections to the use of witnesses, deposition excerpts,
14 and/or exhibits.

15 16. The court will entertain foundational objections as to any document only if (1)
16 the document is of real significance in adjudicating the merits of the case and (2)
17 objecting counsel articulates a principled basis for believing that the document is not what
18 it purports to be.

19 17. If, **after meeting and conferring**, a party continues to object to the admission
20 of evidence on either of the following foundational grounds: (1) the authenticity of a
21 document or exhibit, or (2) the qualifications of expert witnesses, the objecting party may
22 file a motion to exclude the evidence, along with any other motions in limine.

23 18. All motions in limine, including those referred to in paragraph [paragraph
24 number preceding this one], must be filed, served and lodged separately with chambers
25 no less than **10 court days** before the final pretrial conference. Failure to file a timely
26 objection may waive a party's right to challenge the admissibility of evidence at trial.

1 generate a joint proposal with respect to what amount of time will be necessary to present
2 this case, and must be prepared to justify their proposal(s) at the final pretrial conference.
3

4 **SETTLEMENT**

5 28. The court strongly suggests that the parties continue discussing settlement of
6 the case, exploring in good faith all reasonable settlement options. If the parties are
7 interested, the undersigned will refer the case to an administrator who will seek to
8 identify a mediator or a settlement judge who would be available to facilitate
9 negotiations.

10 IT IS SO ORDERED.

11
12 DATED: _____

Wayne D. Brazil
United States Magistrate Judge

13
14 Copies to:
15 All parties
WDB, Stats
16
17
18
19
20
21
22
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 U.S. MAGISTRATE JUDGE WAYNE D. BRAZIL
4

5 SETTLEMENT CONFERENCE STANDING ORDER
6

7 **I. Scheduling**

- 8 A. Settlement conferences hosted by Judge Brazil usually are held on
9 Monday, Tuesday, or Thursday afternoons beginning at either 1:00 p.m.
10 or 2:00 p.m. Participants are to appear in Courtroom 4 on the third floor
11 of the United States Courthouse at 1301 Clay Street in Oakland, CA.
12 B. To schedule a settlement conference, or to ask to move a settlement
13 conference already scheduled, counsel are to contact Judge Brazil's
14 Administrative Law Clerk by phone at (510) 637-3324.
15

16 **II. Counsel Must Meet and Confer, In Person or by Phone, Before Preparing**
17 **Their Written Settlement Conference Statements.**

18 No fewer than ten court days before the settlement conference, counsel for the
19 anticipated participants must meet and confer (in person or voice to voice) to discuss
20 matters pertinent to improving the prospects that the settlement negotiations will be
21 productive. In these discussions counsel may address any subjects they feel are
22 appropriate – but they must discuss the following:

- 23 A. Who will attend the conference on behalf of each party, identifying the
24 lawyer and the client representative, as well as any other persons.
25 B. Which persons or entities must approve a proposed settlement agreement
26 before it can be executed; the nature and duration of that approval
27 process; the standards or criteria generally applied in it; and any
28

1 foreseeable barriers to approval or special concerns that the approving
2 authority might want addressed.

3 C. Whether insurance is available to cover all or part of the claimed losses
4 or to fund all or part of any party's defense; whether tenders have been
5 made to any insurance companies; whether any insurer will have a
6 representative at the settlement conference and, if so, the name of and
7 position held by each such representative.

8 D. Whether it would be useful for settlement demands and/or offers to be
9 made before the settlement conference is convened; and whether the
10 parties might want to consider "structured settlements" and, if so, whether
11 experts in structuring settlements should develop proposals in advance
12 and/or attend the conference.

13 E. Whether there are particular documents or other tangible things that
14 should be brought to the conference (e.g., to educate the settlement judge
15 or to support or explain significant contentions).

16 F. Whether one or more of the parties will ask that the negotiations include
17 any non-monetary items and/or trades or payments in kind; if so, what any
18 such non-monetary items would be (e.g., reinstatement of employment, a
19 job-reassignment or promotion, retirement status or benefits, other fringe
20 benefits, a letter of recommendation, an apology, a joint venture, a buy-
21 out, a licensing agreement, providing products at no cost or discounts, a
22 press release, etc.).

23 G. Any unusual issues or factors that could come into play in the settlement
24 negotiations or any especially sensitive matters that other counsel should
25 be alerted to before the settlement conference.

26 ///

27 ///

28 ///

1 **III. Confidential Written Settlement Conference Statements.**

2 A. Unless otherwise ordered, **no fewer than seven (7) court days before the**
 3 **settlement conference** each party must deliver to the office of the Clerk
 4 of the Court in Oakland (4th Floor, 1301 Clay Street) a **Confidential**
 5 **Settlement Conference Statement** that addresses all matters listed in
 6 subparagraph C., below. **The caption must instruct the Clerk to lodge**
 7 **but not file the Statement.**

8 *Failure to timely submit a settlement conference statement may result*
 9 *in sanctions.*

10 B. Parties are **not** required to serve other parties with copies of their
 11 Confidential Settlement Conference Statement.

12 C. The **Confidential Settlement Conference Statement**, which may not
 13 exceed fifteen (15) pages of text and fifteen (15) pages of exhibits, **must**
 14 **include** the following:

- 15 (i) a brief chronological statement of the facts of the case;
- 16 (ii) a brief statement of the principal claims and defenses;
- 17 (iii) a description of the major factual and legal issues that are in
 18 dispute;
- 19 (iv) separately for each principal claim and defense, a forthright
 20 evaluation of the likelihood that the party submitting the Statement
 21 will prevail;
- 22 (v) the bases for any damages calculations, and a description of any
 23 non-monetary relief sought or non-monetary components of
 24 settlement offers or demands;
- 25 (vi) a summary of the proceedings to date and a description of any
 26 pending motions;
- 27 (vii) an estimate of the expenses and fees that are likely to be incurred
 28 in completing discovery, pretrial, and trial;

- 1 (viii) a history of past settlement negotiations (without revealing
2 communications whose disclosure to a settlement judge is
3 prohibited), a description of the principal obstacles (factual, legal,
4 or other) to reaching agreement, and the reasons the parties'
5 assessments of the case's settlement value differ;
- 6 (ix) each component of each party's most recently communicated
7 settlement demand or offer (describing specifically any non-
8 monetary terms that were demanded or offered);
- 9 (x) a settlement figure or terms that, given all the circumstances, is
10 realistic and that the party submitting the Statement would consider
11 seriously; and
- 12 (xi) a brief discussion of any of the subjects identified in Section II of
13 this Order that might be significant in the settlement dynamic.
14

15 **IV. Required Attendance at Settlement Conferences.**

- 16 A. Lead trial counsel must appear at the Settlement Conference with the
17 parties and with the person or persons having full authority to negotiate
18 and to settle the case.
- 19 B. In all cases where an insurance company's agreement would be necessary
20 to achieve a settlement, the carrier's claims representative, with **full**
21 **authority** to negotiate up to the limits of coverage, also must attend the
22 Settlement Conference.
- 23 C. When a party's final authority to agree to terms of settlement is vested in
24 a governing body, at least **seven (7) court days** before the conference
25 counsel for that party must communicate in writing to Magistrate Judge
26 Brazil and to counsel for other parties how (through whom) the governing
27 body will appear. In addition, counsel must describe the procedure that
28 would be followed in securing that body's consideration of proposed
settlement terms.

1 D. A person seeking to be excused from appearing in person at a
 2 settlement conference must deliver, **no fewer than seven (7) court days**
 3 **before the conference**, a letter to the Magistrate Judge, simultaneously
 4 delivering copies to all counsel. The letter must:

5 (I) explain in detail why attendance in person would impose an
 6 extraordinary or otherwise unjustifiable hardship;

7 (ii) explain why the fact that the person would not attend in person
 8 would have no adverse impact on the parties' and the court's ability
 9 to pursue and achieve the purposes of a settlement conference;

10 (iii) state realistically the amount in controversy in the case;

11 (iv) indicate whether the other parties oppose or do not oppose the
 12 request; and

13 (v) be accompanied by a proposed order.

14 E. Within two (2) court days of receiving a copy of another person's request
 15 to be excused from attending a settlement conference in person, a party
 16 who opposes the request must deliver (by fax or otherwise)
 17 simultaneously to all other parties and to Magistrate Judge Brazil a
 18 writing that details the grounds for the objection. Judge Brazil's fax
 19 number is 510-637-3327.

20 F. A party who is excused from appearing in person must be available
 21 to participate by telephone throughout the conference. *Failure to be*
 22 *available for participation by phone for the full duration of the*
 23 *conference may result in imposition of sanctions.*

24
 25 **V. Requests for Continuances.**

26 A. Any request to continue a settlement conference must be submitted in
 27 writing at least seven (7) court days in advance and only after consultation
 28 with all other parties. The request must indicate whether it is joined or
 opposed by the other parties.

1 B. If the date to which a continuance is sought would be past a deadline for
2 holding the settlement conference that was set by the judge to whom the
3 case is assigned for trial, the party seeking the continuance must secure
4 permission from that judge to hold the settlement conference during the
5 proposed new time frame before seeking the continuance from Magistrate
6 Judge Brazil. A writing evidencing the assigned judge's extension of the
7 deadline must accompany the party's request to Judge Brazil for the
8 continuance.
9

10 **VI. Notification that Case Terminated Before Settlement Conference.**

11 The parties must notify Judge Brazil's administrative law clerk immediately if
12 they settle their case or it is otherwise terminated before the date set for the settlement
13 conference.
14

15 IT IS SO ORDERED.
16

17 Dated: September 15, 2003

/s/ Wayne D. Brazil
WAYNE D. BRAZIL
United States Magistrate Judge

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9

10 STANDING ORDER
11 U.S. MAGISTRATE JUDGE WAYNE D. BRAZIL
12

13 Criminal Matters
14

15 1. Subject to published Notices of Unavailability,¹ **the master criminal calendar**
16 **for Oakland venued cases is held Monday through Friday, beginning at 10:00 a.m., in**
17 **Courtroom 4, Third Floor, United States Courthouse, 1301 Clay Street, Oakland,**
18 **California.**
19

20 2. **Requests to add matters to or continue matters on the criminal calendar**
21 **must be directed to Magistrate Judge Brazil's Courtroom Deputy, Ivy Garcia, at**
22 **(510) 637-3639.**

23 The court will try to accommodate reasonable "last minute" requests to add
24 matters to the 10:00 a.m. criminal calendar. The court requests, however, that counsel,
25 the probation officer, or the pretrial services officer bring to court at least two extra
26

27 ¹Notices of Unavailability are posted in the clerk's office and published in the Recorder, the Daily
28 Journal, and on the Court's internet site at <http://www.cand.uscourts.gov>.

1 copies of any pertinent documents so that the parties and the judge will have the
2 information needed for the proceeding.

3 The clerk's office requires **24 hours notice** for all matters requiring an
4 **interpreter**.

5
6 3. Subject to published Notices of Unavailability, Magistrate Judge Brazil usually
7 is available Monday through Friday after the master criminal calendar -- typically,
8 about 11:15 a.m. -- **to review proposed criminal complaints or applications for**
9 **warrants**. Attorneys or agents who cannot present their papers at this time must call
10 Ms. Garcia, in advance, at (510) 637-3639, to determine when the Magistrate Judge
11 will be available to consider their requests.

12 13 14 Civil Matters

15
16 4. **Civil matters may be placed on the Magistrate Judge's calendar only by his**
17 **administrative law clerk, who can be reached at (510) 637-3324**. Before noticing
18 any matter on the Magistrate Judge's calendar, parties must reserve a specific date and
19 time with the administrative law clerk. In most instances, civil law and motion matters
20 are heard on Wednesday afternoons. Unless otherwise ordered in a particular matter,
21 motion practice is governed by the Civil Local Rules, which are available from the
22 Clerk's Office and on the court's internet site at: <http://www.cand.uscourts.gov>.

23
24 5. Except as noted in paragraph 6, below, **discovery disputes** will be handled
25 according to the provisions of the Civil Local Rules. Specific questions about
26 situations not addressed by the Local Rules may be directed to the administrative law
27 clerk at (510) 637-3324.

1 6. **If a dispute arises during a discovery event** the parties must attempt to resolve
2 the matter without judicial intervention by conferring in good faith. If good faith
3 negotiations between the parties fail to resolve the matter, and if disposition of the
4 dispute during the discovery event likely would result in substantial savings of expense
5 or time, counsel or a party may call the administrative law clerk at (510) 637-3324 to
6 determine whether Magistrate Judge Brazil is available to address the problem through
7 a telephone conference during the discovery event.

8
9 7. After the initial case management conference, parties usually **may elect to**
10 **appear by phone** at hearings or conferences in civil matters that do not involve the
11 taking of evidence or settlement negotiations. A party who wishes to appear by phone
12 must secure permission in advance from Judge Brazil's administrative law clerk. If
13 more than one party will appear by phone, the clerk will designate the party whose
14 counsel must initiate the conference call, get all parties on the line, then call the court's
15 **conference line at (510) 637-3326** at the time noticed for the appearance.

16
17 8. All filings related to civil motions referred to Magistrate Judge Brazil (i.e.,
18 motions in cases assigned for trial to another judge) must **set forth in the caption** or
19 prominently at the beginning of the filing the **civil case number and the District**
20 **Judge's initials followed by the designation "(WDB)".**

21
22 9. When **motions** have been **referred** to Judge Brazil **by a District Judge who sits**
23 **in San Francisco** the parties must file the original and a chambers copy of pertinent
24 documents in the Clerk's Office in San Francisco but also **must deliver an additional**
25 **copy directly to the Clerk's Office in Oakland for Judge Brazil.** See Civil Local
26 Rule 5-1(b).

27
28 10. **In all "E-Filing" cases:** when filing papers in connection with any motion for
determination by the judge, if the length of the motion (or opposition) and supporting

1 documents exceeds ten pages, the parties must, in addition to filing papers
2 electronically, lodge with chambers a printed copy of the papers by the close of the
3 next court day following the day the papers are filed electronically. These printed
4 copies must be marked "Chambers Copy" and must be submitted to the Clerk's Office,
5 in an envelope clearly marked with the judge's name, case number and "E-Filing
6 Chambers Copy." Parties shall not file a paper copy of any document with the Clerk's
7 Office that has already been filed electronically.

8
9 11. Motions for **summary judgment** must be accompanied by a statement of the
10 material facts not in dispute, supported by citations to admissible evidence. The parties
11 must file a joint statement of undisputed facts where possible. If the parties are unable
12 to reach complete agreement after meeting and conferring, they must file a joint
13 statement of the undisputed facts about which they do agree. Any party may then file
14 a separate statement of the additional material facts that the party contends are not
15 subject to genuine dispute.

16
17 12. **Unless specifically requested, the court does not provide a court reporter for**
18 **most pre-trial proceedings.** The court records the proceedings on audiotape, a copy
19 of which may be obtained by submitting a request to the clerk's office, accompanied
20 by a check for \$26.00 payable to the District Court. Each such request must include
21 the title and number of the case, as well as the date and time of the proceeding for
22 which a copy of the tape is requested.

23 **A party who wishes to have a court reporter present for a pretrial**
24 **proceeding in a civil matter must notify Judge Brazil's administrative law clerk**
25 **(at 510-637-3324) at least two weeks before the date set for the proceeding.**

26
27 13. Parties are reminded that most procedural questions are answered in the Federal
28 Rules of Civil Procedure, the Local Rules, or this Standing Order. Parties should not
contact Chambers for answers to procedural questions without first carefully examining

1 the **current** provisions of these authorities. Current versions of the Local Rules and
2 this Standing Order are published on the Court's internet site --
3 <http://www.cand.uscourts.gov>.

4
5 **Settlement Conferences**

6 14. **Scheduling:**

- 7 A. Settlement conferences hosted by Judge Brazil usually are held on
8 Monday, Tuesday, or Thursday afternoons beginning at either 1:00 p.m.
9 or 2:00 p.m. Participants are to appear in Courtroom 4 on the third floor
10 of the United States Courthouse at 1301 Clay Street in Oakland, CA.
11 B. To schedule a settlement conference, or to ask to move a settlement
12 conference already scheduled, counsel are to contact Judge Brazil's
13 Administrative Law Clerk by phone at (510) 637-3324.

14
15 15. **Counsel Must Meet and Confer, In Person or by Phone, Before Preparing Their**
16 **Written Settlement Conference Statements.**

17 No fewer than ten court days before the settlement conference, counsel for the
18 anticipated participants must meet and confer (in person or voice to voice) to discuss
19 matters pertinent to improving the prospects that the settlement negotiations will be
20 productive. In these discussions counsel may address any subjects they feel are
21 appropriate – but they must discuss the following:

- 22 A. Who will attend the conference on behalf of each party, identifying the
23 lawyer and the client representative, as well as any other persons.
24 B. Which persons or entities must approve a proposed settlement agreement
25 before it can be executed; the nature and duration of that approval
26 process; the standards or criteria generally applied in it; and any
27 foreseeable barriers to approval or special concerns that the approving
28 authority might want addressed.

- 1 C. Whether insurance is available to cover all or part of the claimed losses
2 or to fund all or part of any party's defense; whether tenders have been
3 made to any insurance companies; whether any insurer will have a
4 representative at the settlement conference and, if so, the name of and
5 position held by each such representative.
- 6 D. Whether it would be useful for settlement demands and/or offers to be
7 made before the settlement conference is convened; and whether the
8 parties might want to consider "structured settlements" and, if so, whether
9 experts in structuring settlements should develop proposals in advance
10 and/or attend the conference.
- 11 E. Whether there are particular documents or other tangible things that
12 should be brought to the conference (e.g., to educate the settlement judge
13 or to support or explain significant contentions).
- 14 F. Whether one or more of the parties will ask that the negotiations include
15 any non-monetary items and/or trades or payments in kind; if so, what any
16 such non-monetary items would be (e.g., reinstatement of employment, a
17 job-reassignment or promotion, retirement status or benefits, other fringe
18 benefits, a letter of recommendation, an apology, a joint venture, a buy-
19 out, a licensing agreement, providing products at no cost or discounts, a
20 press release, etc.).
- 21 G. Any unusual issues or factors that could come into play in the settlement
22 negotiations or any especially sensitive matters that other counsel should
23 be alerted to before the settlement conference.

24
25 16. Confidential Written Settlement Conference Statements:

- 26 A. Unless otherwise ordered, **no fewer than seven (7) court days before the**
27 **settlement conference** each party must deliver to the office of the Clerk
28 of the Court in Oakland (4th Floor, 1301 Clay Street) a **Confidential**
Settlement Conference Statement that addresses all matters listed in

1 subparagraph C., below. **The caption must instruct the Clerk to lodge**
2 **but not file the Statement.**

3 ***Failure to timely submit a settlement conference statement may result***
4 ***in sanctions.***

5 B. Parties are **not** required to serve other parties with copies of their
6 Confidential Settlement Conference Statement.

7 C. The **Confidential Settlement Conference Statement**, which may not
8 exceed fifteen (15) pages of text and fifteen (15) pages of exhibits, **must**
9 **include** the following:

- 10 (I) a brief chronological statement of the facts of the case;
11 (ii) a brief statement of the principal claims and defenses;
12 (iii) a description of the major factual and legal issues that are in
13 dispute;
14 (iv) separately for each principal claim and defense, a forthright
15 evaluation of the likelihood that the party submitting the Statement
16 will prevail;
17 (v) the bases for any damages calculations, and a description of any
18 non-monetary relief sought or non-monetary components of
19 settlement offers or demands;
20 (vi) a summary of the proceedings to date and a description of any
21 pending motions;
22 (vii) an estimate of the expenses and fees that are likely to be incurred
23 in completing discovery, pretrial, and trial;
24 (viii) a history of past settlement negotiations (without revealing
25 communications whose disclosure to a settlement judge is
26 prohibited), a description of the principal obstacles (factual, legal,
27 or other) to reaching agreement, and the reasons the parties'
28 assessments of the case's settlement value differ;

- (ix) each component of each party's most recently communicated settlement demand or offer (describing specifically any non-monetary terms that were demanded or offered);
- (x) a settlement figure or terms that, given all the circumstances, is realistic and that the party submitting the Statement would consider seriously; and
- (xi) a brief discussion of any of the subjects identified in Section II of this Order that might be significant in the settlement dynamic.

17. Required Attendance at Settlement Conferences:

- A. Lead trial counsel must appear at the Settlement Conference with the parties and with the person or persons having full authority to negotiate and to settle the case.
- B. In all cases where an insurance company's agreement would be necessary to achieve a settlement, the carrier's claims representative, with **full authority** to negotiate up to the limits of coverage, also must attend the Settlement Conference.
- C. When a party's final authority to agree to terms of settlement is vested in a governing body, at least **seven (7) court days** before the conference counsel for that party must communicate in writing to Magistrate Judge Brazil and to counsel for other parties how (through whom) the governing body will appear. In addition, counsel must describe the procedure that would be followed in securing that body's consideration of proposed settlement terms.
- D. A person **seeking to be excused from appearing in person** at a settlement conference must deliver, **no fewer than seven (7) court days before the conference**, a letter to the Magistrate Judge, simultaneously delivering copies to all counsel. The letter must:

- (I) explain in detail why attendance in person would impose an extraordinary or otherwise unjustifiable hardship;
- (ii) explain why the fact that the person would not attend in person would have no adverse impact on the parties' and the court's ability to pursue and achieve the purposes of a settlement conference;
- (iii) state realistically the amount in controversy in the case;
- (iv) indicate whether the other parties oppose or do not oppose the request; and
- (v) be accompanied by a proposed order.

E. Within two (2) court days of receiving a copy of another person's request to be excused from attending a settlement conference in person, a party who opposes the request must deliver (by fax or otherwise) simultaneously to all other parties and to Magistrate Judge Brazil a writing that details the grounds for the objection. Judge Brazil's fax number is 510-637-3327.

F. **A party who is excused from appearing in person must be available to participate by telephone throughout the conference. *Failure to be available for participation by phone for the full duration of the conference may result in imposition of sanctions.***

18. Requests for Continuances:

- A. Any request to continue a settlement conference must be submitted in writing at least seven (7) court days in advance and only after consultation with all other parties. The request must indicate whether it is joined or opposed by the other parties.
- B. If the date to which a continuance is sought would be past a deadline for holding the settlement conference that was set by the judge to whom the case is assigned for trial, the party seeking the continuance must secure permission from that judge to hold the settlement conference during the

1 proposed new time frame before seeking the continuance from Magistrate
2 Judge Brazil. A writing evidencing the assigned judge's extension of the
3 deadline must accompany the party's request to Judge Brazil for the
4 continuance.

5
6 19. Notification that Case Terminated Before Settlement Conference.

7 The parties must notify Judge Brazil's administrative law clerk immediately if
8 they settle their case or it is otherwise terminated before the date set for the settlement
9 conference.

10 IT IS SO ORDERED.

11 Dated: November 10, 2003

12 /s/ Wayne D. Brazil
13 WAYNE D. BRAZIL
14 United States Magistrate Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
5

6
7 ORDER OF THE CHIEF JUDGE
8


9 IN RE: ELECTRONIC FILING IN CASES WITH UNREPRESENTED PARTIES
10

11 When the Electronic Case Filing (ECF/e-filing) program was established for civil
12 cases in January 2003 (see generally General Order 45), the court's practice was to exclude from the
13 e-filing program cases in which any party was not represented by an attorney. Pursuant to Part III of
14 General Order 45, the court's ECF webpage provided: "All cases involving pro se parties are
15 excluded from the e-filing program and must be filed entirely in paper, unless otherwise ordered by
16 the court."

17 Effective immediately, cases with unrepresented party litigants in which at least one
18 party is represented by an attorney will no longer be excluded from the e-filing program. All
19 *represented* parties will e-file their submissions to the court on the same basis as in cases not
20 involving pro se litigants and in compliance with all parts of General Order 45. *Represented* parties
21 will be required to serve paper copies by mail on *unrepresented* parties only. As before,
22 *unrepresented* litigants will continue to file and serve all submissions to the court in paper form
23 unless prior leave is obtained from the assigned judge in a particular case.

24 IT IS SO ORDERED.
25

26 Date: May 11, 2007
27

28


Vaughn R Walker
United States District Chief Judge

United States District Court

For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C

Plaintiff(s),
v.

**DECLINATION TO PROCEED BEFORE
A MAGISTRATE JUDGE
AND
REQUEST FOR REASSIGNMENT TO A
UNITED STATES DISTRICT JUDGE**

Defendant(s). _____/

REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE

The undersigned party hereby declines to consent to the assignment of this case to a United States Magistrate Judge for trial and disposition and hereby requests the reassignment of this case to a United States District Judge.

Dated: _____

Signature _____

Counsel for _____
(Plaintiff, Defendant, or indicate "pro se")

United States District Court

For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C

Plaintiff(s),

**CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE JUDGE**

v.

Defendant(s).

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. Section 636(c), the undersigned party hereby voluntarily consents to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment. Appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

Dated: _____

Signature

Counsel for
(Plaintiff, Defendant or indicate "pro se")

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3

4 NOTICE OF ASSIGNMENT OF CASE
5 TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL
6

7 Pursuant to General Order 44, the Assignment Plan of the United States District Court
8 for the Northern District of California, this case has been randomly assigned to Magistrate Judge
9 _____.

10 Pursuant to Title 28 U.S.C. § 636(c), with written consent of all parties, a magistrate
11 judge may conduct all proceedings in the case. Attached is a form to complete if you consent to
12 proceed before the assigned magistrate judge and a form to complete if you decline to proceed
13 before the assigned magistrate judge. Electronic versions of both forms are also available at the
14 Court's Internet site: <http://www.cand.uscourts.gov>. Click on Forms-Civil. A party is free to
15 withhold consent without adverse consequences. If a party declines to consent, the case will be
16 randomly reassigned to a district judge and a case management conference will be scheduled on
17 the district judge's calendar as close as possible to the date presently scheduled before the
18 magistrate judge.

19 You must file your consent or declination by the deadline for filing the initial case
20 management statement.

21 The plaintiff or removing party shall serve a copy of this notice and all attachments upon
22 all other parties to this action pursuant to Federal Rules of Civil Procedure 4 and 5.
23

24 FOR THE COURT
25 RICHARD W. WIEKING, CLERK
26

27 _____
28 By: Deputy Clerk